

Memorandum of Understanding
between
The City of New York
and
The State of New York
respecting
The Javits Convention Center & The New York Sports and Convention Center

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Memorandum of Understanding (“MOU”), dated as of March 25, 2004, between the City of New York (the “City”) and the State of New York (the “State”).

Recitals

WHEREAS, the State and the City recognize the importance of convention, sporting and entertainment events to the New York City and New York State economy and that such events provide significant direct and indirect benefits to the people of the City and the State and enhance the City’s position as a global hub for commerce and culture; and

WHEREAS, the Convention Center Corridor Redevelopment Area, defined approximately as the area bounded by 42nd Street on the north, the West Side Highway on the west, 30th Street on the south, and Eleventh Avenue on the east (the “Convention Center Corridor Redevelopment Area”) represents an opportunity for the State and the City to complement the Jacob Javits Convention Center (the “Javits Center”) by adding a Multi-Use Sports and Convention Center to host large scale sports, exhibition and entertainment events (the “Multi-Use Facility”) and by expanding the existing Javits Center (the “Javits Center Expansion”); and

WHEREAS, there is a significant need to expand the Javits Center in order to accommodate substantially larger trade shows and conventions; and

WHEREAS, the New York State Urban Development Corporation doing business as the Empire State Development Corporation (“ESDC”) shall enter into a Memorandum of Understanding (the “Jets MOU”) with the Jets Development LLC (the “Jets”) and the New York State Metropolitan Transportation Authority (“MTA”) whereby the Jets will commit to develop the Multi-Use Facility to be located on MTA rail yards located between 11th Avenue and the West Side Highway and 30th and 33rd Streets (the “Western Railyards”); and

WHEREAS, the Multi-Use Facility will contain a retractable roof and will be a civic amenity capable of attracting to the City major professional and amateur sporting events, significant trade shows and conventions, and other entertainment opportunities all of which will draw substantial numbers of people to the City who otherwise would go elsewhere to attend such events thereby

invigorating the City's and State's economy by capturing substantial flows of disposable income that would otherwise be spent elsewhere; and

WHEREAS, the construction of the Multi-Use Facility will be a catalyst for economic development and will generate significant increased State and City tax and other revenues that are expected to exceed the public contribution to the Multi-Use Facility; and

WHEREAS, the Multi-Use Facility will enhance the City's bid for the 2012 Olympic Games (the "Olympics"); and

WHEREAS, the MTA and the New York City Department of City Planning, in conjunction with New York City Transit, have proposed to promote the transit-oriented redevelopment of the greater Hudson Yards area through an extension of the No. 7 Flushing Line of the New York City Transit Authority and the adoption of amendments to the New York City Zoning Resolution and are acting as Co-Lead Agencies in a coordinated environmental review of a proposed action that includes the expansion and modernization of the Javits Center and development of a new Multi-Use Facility; and

WHEREAS, the State and City desire to work collaboratively to redevelop the Convention Center Corridor Redevelopment Area by expanding the Javits Center and developing the Multi-use Facility (such redevelopment and the collaborative activities of the State and City in respect thereof are hereinafter referred to as the "Project") through the close coordination of their respective roles with regard to all planning, financing and implementation activities, including the conduct of all required land use, environmental and other regulatory reviews; and

WHEREAS, to promote and advance the vision of the City and the State with respect to the Project, it is essential that the State and City enter into this MOU in order to provide a mechanism for the State and City to harmonize their interests and to act in a cooperative and collaborative manner in order to achieve the common objectives of the State and City with regard to the Project;

NOW, THEREFORE, the State and City do acknowledge and commit to each other as follows:

Agreement

1. The State and City shall each designate an individual(s) to represent it at meetings periodically convened to coordinate the Project and to consider and make detailed planning and implementation decisions with respect to the Project.

2. In order to further promote coordination of effort with regard to realizing the Project, the Governor shall (a) direct that the New York Convention Center Development Corporation ("CCDC") Board be increased from four members to six members and that two designees of the Mayor be appointed to the Board of CCDC, and (b) propose legislation providing that the New York Convention Center Operating Corporation ("CCOC") Board be increased from thirteen members to up to twenty-one members and that four designees of the Mayor be appointed to the Board of CCOC.

3. The State shall cause ESDC, contemporaneously herewith, to enter into the Jets MOU. The Jets MOU, together with this MOU and other agreements, as applicable, among the State, City, ESDC and CCDC shall provide, among other things, the following:

- (a) the Jets will plan, design and construct the Multi-Use Facility, including the platform over the Western Railyards (the "Enclosure") and the retractable roof (the "Roof") to accommodate the proposed sports, convention and entertainment uses contemplated by the State and City hereto;
- (b) the State and City, in equal shares, will fund a portion of the cost of the Multi-Use Facility in an aggregate amount not to exceed \$600 million (net of financing costs) with the State funds being allocable solely to the Enclosure and the City funds being allocable to the Enclosure and the Roof; the Jets will fund, or provide for private funding, of all other costs of the Multi-Use Facility (estimated to be \$800 million) including all cost overruns, if any; and
- (c) that the State and City will share with the Jets, on a pari passu basis, in any savings achieved if the aggregate cost of the Multi-Use Facility, including the Enclosure and the Roof, is less than \$1.4 billion and that the State, City and Jets will disburse their respective funds for the construction of the Multi-Use Facility pari passu, unless otherwise agreed to by the parties; and
- (d) that the Jets will sublease the air space above the Western Railyards from ESDC (or CCDC), for a term of 49 years, with five 10 year renewal options, less one day, and the sublease will, among other things, contain use provisions and restrictions to be agreed upon between ESDC (or CCDC) and the Jets, and provisions requiring that the Jets secure the agreement of its affiliate, the New York Jets to play its home games at the Multi-Use Facility for a period of not less than 30 years from the first football season played by the new York Jets at the Multi-Use Facility; and
- (e) the Multi-Use Facility will be designed to be convertible to a facility that can accommodate the Olympics.

4. The City and State (through ESDC or CCDC) shall each have a commensurate real estate interest in the Multi-Use Facility.

5. The State shall cause CCDC, in cooperation with the State and City, to take the lead in preparing a State legislative program to allow for the proposed Javits Center Expansion, including such requirements as are necessary to permit the financing described hereinbelow.

6. CCDC has expended considerable funds in furtherance of the Javits Center Expansion. In concurrence with the State and City and subject to necessary approvals, as applicable, and the financing requirements set forth below, the State shall cause CCDC to continue to engage in studies, plan, make site acquisitions as necessary, design and construct the Javits Center Expansion. All of such past and future costs shall be deemed Javits Center Expansion costs.

7. The City and State agree to pursue financing the Javits Center Expansion, consistent with the following principles:

(a) supplementing the convention center development fee, described in paragraph (e) below, the City and State shall share equally the cost of the Javits Center Expansion;

(b) the State and the City expect that the total development costs of the Javits Center Expansion, not including any costs or subsidies attributable to the private hotel portion, will not exceed, in the aggregate, \$1.2 billion, and neither the City nor the State shall be obligated to make any payments toward development costs in excess of their respective commitments of \$350 million, provided, however, that after commencement of construction, in the event any change orders are proposed with respect to unforeseen conditions or occurrences, the State and the City shall bear the cost of any such change orders on an equal basis;

(c) the State may fund its share of the Javits Center Expansion through the refinancing, restructuring or increasing of the Triborough Bridge and Tunnel Authority bonds originally issued to finance the construction of the Javits Center, the excess proceeds of which will be applied to the State's share of Javits Center Expansion costs; or the State may elect to pursue other appropriate financing mechanisms;

(d) the City may fund all or a portion of its share of the Javits Center Expansion by utilizing Battery Park City 7(a)(2) revenues and special fund amounts to be assigned to back such financing and the State will use its good faith efforts to maximize the amount to be financed from such revenues and to obtain all necessary approvals from the Battery Park City Authority to release the funds; or the City may elect to pursue other appropriate financing mechanisms;

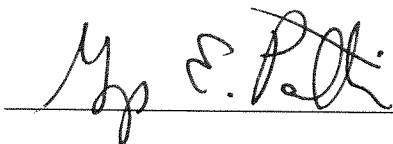
(e) the implementation of a legislatively enacted convention center development fee on New York City hotel rooms that will be collected and remitted to CCDC and dedicated solely to the Javits Center Expansion with the understanding that CCDC, or another appropriate State entity, may issue bonds that are collateralized by such fees and that the convention center development fee will be eliminated at an agreed upon time, which will coincide with the repayment of such bonds and provided further that the State agrees that it will pursue the necessary credit and support for such bonds from the Mortgage Recording Tax

that currently flows through the Mortgage Insurance Fund and that would not otherwise be payable to the City.

8. The State and City each agree to support all necessary legislation to enable the Javits Center Expansion to occur as described herein and each agrees to cooperate with the other and to seek a comprehensive agreement, on terms mutually acceptable, for the financing and redevelopment of the entire Hudson Yard redevelopment area, as generally described in the Environmental Impact Statement being prepared for such redevelopment.

9. The State and City acknowledge that the proposals for new development in the Convention Center Redevelopment Area which are the subject of this MOU are currently the subject of environmental review and will be the subject of other discretionary approvals, the results of which may alter or modify the proposals or may result in a decision not to proceed with all or some aspect of the development, and that the terms of this MOU do not constitute an approval or decision with respect to the new development proposals. The State and City agree to work together to amend the terms of this MOU as necessary to reflect any modifications of the development proposals which may result from such environmental review and land use or other discretionary approvals.

The State of New York

By: 

The City of New York

By: 